

Policy and Procedure Manual

Procedures for Responding to and Reporting Allegations of Child Abuse

1. Introduction

The College will take appropriate, prompt action in response to all allegations or disclosures of abuse, neglect, inappropriate behaviour or concerns about child safety by reporting all matters to the Department of Families, Fairness and Housing (Child Protection), the Commission for Children and Young People (CCYP), the Police or Orange Door depending on the allegation or disclosure made.

This document outlines the procedures for responding to and reporting allegations of suspected child abuse and is endorsed by the school's governing authority, the College Council.

2. Purpose

This document forms part of our Child Safe Program and should be read together with the Child Safe Policy and the Child Safe Code of Conduct. This document describes our work systems, practices, process and procedures for responding to and reporting allegations of child abuse both internally and externally.

- a) St Leonard's College has established simple and accessible procedures for anyone to report, if appropriate, a child safety and protection concern internally to the Principal or to one of the College's Child Protection Officers. Please be aware that consulting with a Child Protection Officer does not change any obligation you have under legislation to report to an external authority.
- b) St Leonard's College has developed and implemented procedures for members of Council, staff and Direct Contact Volunteers for responding to allegations and disclosures of child abuse, or suspected child abuse, including procedures for support following a disclosure by a student.
- c) Reporting procedures for Third Party Contractors, External Education Providers, Indirect Contact Volunteers, parents/carers and other community members are also included in our Child Safe Policy which is available on our public website.
- d) Age-appropriate reporting procedures for students are developed through our pastoral care program.

3. Definitions

- a) Child Abuse

Child abuse is any behaviour that harms a child (in this case, anyone under the age of 18). It can take many forms, including:

- i. **Physical abuse** – causing significant harm from an injury, deliberately or as a consequence of aggressive treatment or punishment.
- ii. **Sexual abuse** - Using power, force or authority to involve a child in any type of sexual activity – touching or fondling, obscene / suggestive calls/texts, exhibitionism and/or voyeurism, pornographic images, penetration with penis, finger or other object into the mouth, anus or vagina.
- iii. **Serious emotional or psychological harm** - Repeated rejection, name calling, frightening by threats, continued coldness with an impact on social, emotional and intellectual development.
- iv. **Neglect** - Failure to provide basic needs such as food, shelter, clothing, medical attention, or providing appropriate supervision or care.

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- v. **Exposure to family violence** - Conduct, real or threatened, towards a member of the family which causes fear or apprehension about the child's personal safety or that of other family members.
- vi. **Grooming** - Developing a special relationship with a child, inappropriately spending special time with a child, giving gifts to a child, showing special favours, allowing the child to step out of boundaries or rules, testing and breaking of professional boundaries with the potential for committing a sexual offence against the child in the future.

b) Relevant Organisation

A 'relevant organisation' is defined in the Crimes Act as one that exercises care, supervision or authority over children, whether as its primary function or otherwise.

Relevant to the School context, the following are included in the Crimes Act as "relevant organisations":

- religious bodies
- schools
- education and care services within the meaning of the Education and Care Services National Law Act 2010 (Vic) (e.g. out of school hours care)
- sporting groups
- charities or benevolent organisations.

Organisations that are not included in the list (such as private businesses) are also considered a relevant organisation if they have an agreement or arrangement with a relevant organisation to engage in activities associated with that organisation's care, supervision or authority over children. This may include, for example, a business contracted by the School to take students' year photos.

4. Managing Your Initial Response to a Child Protection Incident

All teaching staff, non-teaching staff, College Council members, volunteers, third-party contractors and external education providers must act as soon as they witness a child protection incident or form a reasonable belief that a child has been or is at risk of being abused.

- a) If a child is at immediate risk of harm you must ensure their safety by:
 - separating alleged victims and others involved
 - administering first aid
 - calling 000 for urgent medical assistance or Police assistance to address immediate health and safety concerns - (*Local Police should be contacted by calling the Bayside Sexual Offences and Child Abuse Investigation Teams on PH: 03 8530 5203 or in the case of an emergency dial 000*).
 - briefing a College Child Protection Officer (See page 3 of this document).

5. Reporting a Child Abuse Concern Internally

Child abuse situations can be very complex, not only from the perspective of ascertaining whether abuse has occurred but also in understanding what steps to take to protect a child. It is always important to remember that the safety and welfare of the child are paramount.

If you have a concern that a child may be experiencing abuse, whether or not you have formed a belief on reasonable grounds that the abuse has occurred, you should immediately raise your concerns with the Principal, the Director of

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Wellbeing, the Head of Counselling team, or one of the College's Child Protection Officers. Our Child Protection Officers will be able to assist you in clarifying your concerns and managing the next steps (See Appendix I: Reporting Process, page 14).

The College Child Protection Officers are:

- Principal (Lead Child Protection Officer)
- Director of Wellbeing (Lead Child Protection Officer)
- Head of the Counselling team (Lead Child Protection Officer)
- All College Counsellors
- Deputy Principal
- College Nurse
- Director of Early Learning Centre
- Head of Junior School
- Deputy Head of Junior School and IB PYP Coordinator
- Head of Year 5/6
- Head of Year 7
- Head of Year 8/9
- Head of Middle School
- Head of Year 10
- Head of Year 11
- Head of Year 12
- Head of Senior School
- Head of Sport
- Head Coach & Swimming Coordinator
- International Homestay Coordinator
- Head of Theatre Productions
- Warruwi Coordinator
- Teacher - EAL and IEL
- Community Sport Leader
- Head of Outdoor Education
- Head of Library
- Head of Learning Enhancement
- Head of Aesthetic Sports

6. The Obligation to Report a Sexual Offence (Failure to Disclose) and Failure to Protect

The obligation to report a sexual offence (Failure to Disclose) and to protect a child from being the victim of a sexual offence (Failure to Protect), applies to alleged offences in the state of Victoria and to all persons in Victoria or elsewhere who have this information. The person must report the offence as soon as is practicable, unless the person has a *reasonable excuse* for not doing so (see next page).

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6.1 Failure to Disclose

For the purposes of the Failure to Disclose offence, it does not matter whether the child, the perpetrator of the offence, or the person who has information about a sexual offence against the child are themselves in Victoria or not, so long as the offence itself was committed in Victoria.

For example:

- the criminal offence of grooming a child could occur “in Victoria” if a person who is in Victoria grooms a child who is located elsewhere, or if a child who is in Victoria is groomed by a perpetrator who is located elsewhere
- a sexual offence against a child could occur in Victoria, but an adult could form a reasonable belief about it when they are themselves located elsewhere (for example, by receiving a disclosure while they are on an interstate camp or excursion).

Failure to Disclose applies to all adults (persons over the age of 18 years of age) who form a reasonable belief that another adult may have committed a sexual offence against a child under 16 years of age and fail to report this information to Victoria Police.

What is a Reasonable belief?

A “reasonable belief” is formed if a reasonable person in the same position would have formed the belief on the same grounds. A “reasonable belief” might be formed when:

- a student tells you that they have been sexually abused
- a student tells you that they know someone who has been sexually abused (sometimes the child may be talking about themselves)
- someone who knows the student states that the student has been sexually abused
- signs of sexual abuse lead to a belief that the student has been sexually abused.

Should a person fail to report the information, without a reasonable excuse, you may be charged with a criminal offence.

What is a Reasonable Excuse for Not Reporting to Police?

You will not need to report to the Police if you have a reasonable excuse for not doing so. Under the Crimes Act, a reasonable excuse includes:

- fear for safety: you fear on reasonable grounds for the safety of any person (other than the offender), and do not disclose due to those circumstances
- victim requests confidentiality: a victim, who is now aged 16 or over, told you about the sexual offence (directly or indirectly) and the victim requested that the information not be disclosed. This excuse does not apply if the victim has an intellectual disability and does not have the capacity to make an informed decision about confidentiality
- information already disclosed: you believe on reasonable grounds that the information has already been disclosed to the Police (for example if you or someone else has made a Mandatory Report to Child Protection) and you have no further information to add.

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Unacceptable Reasons for Not Reporting

Unacceptable reasons for not reporting include if you are concerned about the interests (including the reputation, legal liability or financial status) of:

- the person involved in the sexual offence
- any organisation (such as the School).

In summary, Failure to Disclose applies if:

- i. they are aged 18 years or over; and
- ii. they have information that leads them to form a reasonable belief that a sexual offence has been committed in Victoria, against a child under the age of 16 years, by another person aged 18 years or over; and
- iii. they fail to disclose the information to the Police as soon as practicable (without an acceptable reason)

(Local Police should be contacted by calling the Bayside Sexual Offences and Child Abuse Investigation Teams on PH: 03 8530 5203 or in the case of an emergency dial 000).

6.2 Failure to Protect

This criminal offence is commonly known as 'Failure to Protect', though its full title is 'Failure by a person in authority to protect a child from a sexual offence'.

- a) In the School context, the offence covers failures to protect a student aged under 16 from sexual offences committed by any adult member of staff, volunteer or contractor at the School.
- b) As a school staff member, and adult over the age of 18, you have a duty to take reasonable steps to protect children under your care and supervision from harm that is reasonably foreseeable.
- c) Students aged 18 or over and parents/carers (other than parent volunteers), are not considered adults 'associated with' the School for the purposes of the Failure to Protect offence. However, if a student aged 18 or over, a parent/carer and other family member of students poses a reasonably foreseeable risk of sexually abusing a student, the common law duty to protect students still applies.
- d) In addition, under section 490 of the Crimes Act 1958 (Vic) (Crimes Act) a person commits an offence if:
 - i. by reason of the position they occupy within or in relation to the College, they have the power or responsibility to reduce or remove a substantial risk that a relevant child (under the age of 16 who is, or may come under the care, supervision or authority of the College) will become the victim of a sexual offence committed by a person of or over the age of 18 years who is associated with the College; and
 - ii. they know that there is a substantial risk that the person will commit a sexual offence against a relevant child; and
 - iii. they negligently fail to reduce or remove that risk.

What is a Substantial Risk?

A risk will be a substantial risk if a reasonable person would have judged the risk of a sexual offence being committed against the student as being substantial.

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It is not necessary to prove that a sexual offence was committed in order for the substantial risk to exist - a person in a position of authority should not wait for a student to be harmed before acting.

There are several factors that may assist in determining whether a risk is a substantial risk. These include:

- i. the likelihood or probability that the child will become the victim of a sexual offence
- ii. the nature of the relationship between a child and the adult who may pose a risk to the child
- iii. the background of the adult who may pose a risk to the child, including any past or alleged misconduct
- iv. any vulnerabilities particular to a child which may increase the likelihood that they may become the victim of a sexual offence
- v. any other relevant fact which may indicate a substantial risk of a sexual offence being committed against a child.

Who Does this Obligation Apply to in Schools?

In a normal school context, the Principal and members of the Executive Team would always have the necessary degree of supervision, power and authority to remove or reduce a risk posed by another adult working at the College.

Examples of people in authority may include the Chair of Council, board/council or committee members, school principals, service managers and religious leaders. It may also apply to people with less formal involvement in an organisation. For example, a volunteer parent coach responsible for the supervision of a junior sports team may be a person in authority, even if their role is informal or limited.

However, on a day to day basis, and on tours, excursions, or camps, others at the College could have the requisite power and responsibility.

Examples of people who may have the power and responsibility, by reason of their position, to act could include:

- College Council members
- Teachers
- Volunteers where they are in a position of supervision, such as volunteer coaches.

What Must be Reported and to Whom

The information that led the person aged 18 or over to form a reasonable belief that a sexual offence has been committed by an adult (a person aged 18 years or over) against a child under 16 must be reported to the Police.

The Crimes Act sets out what constitutes a "sexual offence". This includes:

- rape
- indecent assault
- incest
- sexual penetration
- grooming a child, or a person who has the care, supervision or authority of a child aged under 16, for sexual conduct with the child. Grooming can be defined as when a person engages in predatory conduct to prepare

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a child or young person for sexual activity later. Grooming can include communicating and/or attempting to befriend or establish a relationship or other emotional connection with the child or their parent/caregiver.

- encouraging a child to engage in, or be involved in, sexual activity.

A "sexual offence" includes an attempted sexual offence.

In summary, the Failure to Protect offence means that action must be taken:

- by any member of staff, volunteer or contractor who has the power or responsibility to do so
- to protect students aged under 16
- from a known substantial risk of the student becoming the victim of a sexual offence by an adult staff member, volunteer or contractor at the School.

It does not matter if the student, the person who poses the substantial risk or the person who has the power or responsibility to act are outside of Victoria, so long as the student was in Victoria at any time while the substantial risk existed or so long as the sexual offence was at risk of occurring in Victoria.

Procedures to Reduce or Remove a Substantial Risk

Where any staff member, volunteer or contractor becomes aware of a risk of a sexual offence against a student or students under their care, they should immediately:

- take reasonable steps which would remove or reduce the risk to the student or students, which may include immediately removing the person from contact with the student or students;
- report the matter to a College Child Protection Officer, and the Principal, as soon as practicable.

Upon receipt of this report, the Principal or their delegate will:

- conduct an investigation, unless this relates to a Mandatory Reporting situation;
- make the appropriate report.

Appropriate action to be taken may include:

- a current employee who is believed to pose a risk to a student or students should be immediately removed from contact with students and reported to appropriate authorities for investigation;
- a parent who is known to pose a risk of sexual abuse to children should not be allowed to act as a volunteer at the College;
- only parents with current WWCC are permitted to act as volunteers at the College. If the College is informed by a relevant authority of alleged child abuse by a College parent, the parent will be removed from the volunteer register until the allegation is resolved.

Whenever there are concerns that a child is in immediate danger call the Police on 000.

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7. Mandatory Reporting

- a) The Children, Youth and Families Act 2005 (Vic) (CYFA) (section 184) requires Mandatory Reporters to make a report to the Department of Families, Fairness and Housing (Child Protection) when they believe that a child (aged under 17) needs protection from significant harm from physical injury or sexual abuse.
- b) If a Mandatory Reporter makes a report in accordance with their Mandatory Reporting obligations under the CYFA, an additional report to the Police under section 327 Crimes Act 1958 (Vic) may not be required unless you have further information.
- c) A Mandatory Report must be made when you form a belief on reasonable grounds that a child is in need of protection where the child has suffered, or is likely to suffer, significant harm as a result of:
 - i. physical injury; or
 - ii. sexual abuse, and

the child's parents have not protected, or are unlikely to protect, the child from harm of that type.

d) Who Must Make a Mandatory Report?

Mandatory Reporters are defined by the CYFA in section 182, and include:

- registered teachers and early childhood teachers
- school principals
- registered medical practitioners
- nurses
- midwives
- registered psychologists
- police officers
- school counsellors
- early childhood workers
- out of home care workers (excluding voluntary foster and kinship carers)
- youth justice workers
- persons in religious ministry*.

* "Person in religious ministry" is defined by the CYFA to mean "a person appointed, ordained or otherwise recognised as a religious or spiritual leader in a religious institution." This definition includes a chaplain, priest, pastor, minister, brother and nun.

It is the responsibility of other staff, volunteers or members of the College community to check whether they are Mandatory Reporters under child protection legislation.

e) College Procedures for Making a Mandatory Report

Mandatory reporters in the College must make a report to child protection as soon as practicable if they form a belief on reasonable grounds, that a child needs protection from physical injury or sexual abuse. Lead CPO's and the relevant Head of School must be informed when a request is made (see Appendix 1: Reporting Process, page 14).

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8. Supporting Children in relation to suspected child abuse

Children involved in suspected child abuse are vulnerable and may need additional supports, including

- a) internal counselling support
- b) referral to external counselling and/or specialist services
- c) monitoring wellbeing indicators, such as attendance, academic engagement, participation in College programs
- d) support to families (as per some of above)

9. Reportable Conduct

Reportable Conduct is defined in section 3 of the Child Wellbeing and Safety Act 2005 (Vic) to mean:

- a) a sexual offence committed against, with or in the presence of, a child, whether or not a criminal proceeding in relation to the offence has been commenced or concluded;
- b) a broader range of inappropriate behaviours of a sexual nature, with or in the presence of, a child (for example, sexting, voyeurism, inappropriate conversations);
- c) physical violence committed against, with or in the presence of, a child;
- d) any behaviour that causes significant emotional or psychological harm to a child; or
- e) significant neglect of a child.

The College has developed a policy which sets out our systems for enabling persons to report reportable conduct and for such reports to be investigated and responded to. This policy is made available to all staff, volunteers, third party contractors, the Council, parents/carers and students via our public website and the College intranet (STL Link).

10. Student Sexual Offending

All staff, volunteers, third party contractors and external education providers must take action if they suspect, or are witness to, student sexual offending.

The Four Critical Actions for Schools: Responding to Student Sexual Offending must be applied in any circumstance where there is an incident, allegation, or you form a suspicion that, a student is victim to a student sexual offence and/or a student has committed a sexual offence.

This includes suspected sexual offending that may have taken place outside of College grounds and hours.

What is student sexual offending?

Student sexual offending refers to sexual behaviour by a student at the College, over 10 years of age, which amounts to a sexual offence. Sexual offences are defined in the Crimes Act 1958 (Vic) and include:

- a) rape
- b) sexual assault
- c) indecent acts
- d) other unwanted sexualised touching.

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11. Conduct that is Reportable to the Victorian Institute of Teaching

Under section 2.6.57 of the Education and Training Reform Act 2006 (Vic) (the Act), registered teachers must notify the VIT, and include in any application for registration or renewal of their registration, if they are committed for trial or have been convicted or found guilty of certain criminal offences that accord with those relevant to WWC Checks.

Registered teachers must also notify Working with Children Check Victoria (WWCCV) of all organisations in which they engage in child-related work (other than teaching).

Under section 2.6.31 of the Act, the College must notify the VIT if the College has taken:

- a) any action against a registered teacher in response to allegations:
- b) of serious incompetence
- c) of serious misconduct
- d) that the teacher is unfit to be a teacher
- e) that the teacher's ability to practice as a teacher is seriously detrimentally affected or likely to be seriously affected because of an impairment; or
- f) any other actions against a registered teacher that may be relevant to their fitness to teach.

The College must also immediately notify the VIT if it becomes aware that a teacher:

- g) has been charged with, or convicted or found guilty of, certain criminal offences that accord with those relevant to WWC Checks.

Section 2.3.10 of the Act requires that the College dismiss or remove from its employment or engagement any teacher who has either:

- h) been convicted or found guilty of certain criminal offences that accord with those relevant to WWC Checks; or
- i) been given a WWC exclusion notice.

12. Child Protection Record Keeping

Effective child protection record keeping is one of the College's key strategies in the management of its child protection obligations, including the fulfilment of our duty of care.

It is through such record keeping that the College can ensure that, should there ever be a need for evidence of the College's child safe culture or precautions and preventative measures taken in response to the risk of child abuse, the College has well-documented and easily-accessible records.

13. Confidentiality and Privacy

Anyone who has access to information regarding a case of suspected child abuse must keep such information confidential and secure and must only disclose or discuss this information with those involved in managing the situation.

A person must not provide undertakings that are inconsistent with our reporting obligations in the College's Child Protection Program. In particular, you must not promise a student that you will not tell anyone about the student's disclosure.

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Students and any other parties who become involved in the investigation (this may include other students) should be informed of the reporting process and be required to maintain confidentiality.

Inappropriate disclosure will be subject to disciplinary action.

14. Information Sharing under Part 6A of the Child Wellbeing and Safety Act 2005 (Vic)

The College, as a non-government school, is a prescribed Information Sharing Entity (ISE) under regulation 5 and Schedule 1 of the Child Information Sharing Regulations.

In accordance with the Child Information Sharing Regulations the College may, or in some cases must, share information relating to the safety and wellbeing of children and young people with specific agencies or people.

Despite laws prohibiting or restricting the disclosure of personal information, organisations and services prescribed as an “information sharing entity” (ISE), including non-government schools, must share confidential information relating to the safety and wellbeing of a child or young person (Child Information) with other ISEs:

- when requested to do so by the ISE under Part 6A of the Child Wellbeing and Safety Act 2005 (Vic) (CWS Act); and/or
- to fulfil Reportable Conduct obligations and Mandatory Reporting/Reporting to Police obligations.

Part 6A of the CWS Act also permits ISEs to voluntarily disclose to other ISEs confidential information about any person, for the purpose of promoting the wellbeing or safety of a child or group of children.

It also permits ISEs to disclose confidential information to a child, or to a parent or carer of the child, for the purpose of managing a risk to the child's safety.

Together, the CWS Act and the Child Wellbeing and Safety (Information Sharing) Regulations 2018 (Vic) Child (Information Sharing Regulations) establish a statutory information sharing regime, called the Child Information Sharing Scheme (CIS Scheme).

The CIS Scheme prioritises the sharing of child information, to ensure the protection and wellbeing of children and young people, over the protection of an individual's privacy and confidentiality.

The CIS Scheme does not affect reporting obligations created under other legislation, such as Mandatory Reporting.

It also does not prevent or limit the College from using or disclosing Child Information if it is required or permitted to do so by or under any other Act or law.

(For further information regarding the Child Information Sharing Scheme, see [Disclosure of information under the Information Sharing Scheme](#).)

15. Documenting Your Observations and Actions

All teaching staff, non-teaching staff, Council members, Volunteers, Third Party Contractors and External Education Providers must keep clear and comprehensive notes relating to incidents, disclosures and allegations of child abuse. This information may be sought at a later date if the matter is the subject of court proceedings. Your notes may also assist you later if you're required to provide evidence to support your decisions regarding the handling of child protection incidents.

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For more information about how to record observations, disclosures or allegations refer to the Child Protection Record Keeping section of this Program.

16. Preserving Evidence

When an incident of suspected child abuse occurs at the College, consider all of the following:

- a) environment: do not clean up the area, and preserve the sites where the alleged incident occurred
- b) clothing: take steps to ensure that the person who has allegedly committed the abuse and the child who has allegedly been abused remain in their clothing. If this is not possible, ensure the clothes are not washed, handled as little as possible and stored in a sealed bag
- c) other physical items: ensure that items such as weapons, bedding and condoms are untouched
- d) potential witnesses: reasonable precautions must be taken to prevent discussion of the incident between those involved in the alleged incident.

17. Communication of this Policy

Students

- Reference to the Child Safe Policy is accessible on the Student Wellbeing Site on STL Link under Child Safety.

Staff

- Available to Staff on CompliSpace (via STL intranet) under Student Duty of Care
- Included in new staff induction material

College Community

- Presentation to College Council of the College's Child Safe Program
- An annual notice is published in the College Newsletter advising the community of the location of College policies.
- Link to website policies is included in the online parent handbook and parent portal
- College Child Safe Policy is available on the College Website

18. Prepared by

Director of Wellbeing, Compliance Manager

19. Review Cycle

This policy is reviewed every two years (in accordance with the requirements of the Ministerial Order), for approval and endorsement by the Principal and the school's governing authority, the College Council.

20. Reason for Revision

Updated in accordance with the requirements of Ministerial Order No. 1359 Implementing the Child Safe Standards – Managing the Risk of Child Abuse in Schools and School Boarding Premises*.

(*This Ministerial Order, commencing 01 July 2022, replaces Ministerial Order No. 870 – Child Safe Standards – Managing the Risk of Child Abuse in Schools).

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21. Approved by

Peter Clague, Principal



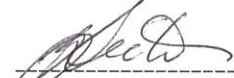
07/06/2023

Signature

Date

22. Endorsed by

Jen Neate, Chair, College Council



Signature

14/6/23

Date

Appendix 1: Reporting Process

